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James H. Newberry, Jr.  
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September 3, 2004

RECEIVED

SEP 03 2004

PUBLIC SERVICE  
COMMISSION

VIA HAND DELIVERY

Ms. Elizabeth O'Donnell  
Executive Director  
Public Service Commission  
211 Sower Boulevard  
P.O. Box 615  
Frankfort, KY 40602

Re: In the matter of the Joint Application of Berea College and the City  
of Berea for an Order Authorizing the Transfer of Utility Assets  
pursuant to KRS 278.020(5) and (6)  
Case No. 2004-00331

Dear Ms. O'Donnell:

Enclosed for filing please find the original and twelve (12) copies of both  
the Joint Application and the Applicants' Motion for Informal Conference. Please  
return a date-stamped to us.

Please call me if you have any questions.

Sincerely yours,

*James H. Newberry, Jr.*  
James H. Newberry, Jr.  
James H. Newberry, Jr.

JHN/sc

cc: David Spenard, Esq.

30336740.1

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Lexington, KY 40507-1746  
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918 Stote Street  
Bowling Green, KY 42101  
270.842.1050

1715 Aaron Brenner Drive, Suite 800  
Memphis, TN 38120-4367  
901.537.1000

500 West Jefferson Street, Suite 2800  
Louisville, KY 40202-2898  
502.589.5235

311 West Main Street  
Frankfort, KY 40601 1807  
502.223.2104

2525 West End Avenue, Suite 1500  
Nashville, TN 37203-1423  
615.244.0020

101 West Spring Street, Suite 500  
New Albany, IN 47150-3610  
812.945.3561

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

**RECEIVED**

SEP 03 2004  
PUBLIC SERVICE  
COMMISSION

IN THE MATTER OF THE JOINT APPLICATION )  
OF BEREA COLLEGE AND THE CITY OF BEREА )  
FOR AN ORDER AUTHORIZING THE TRANSFER )  
OF UTILITY ASSETS PURSUANT TO )  
KRS 278.020(5) AND (6) )

NO. 2004-00331

**APPLICATION**

The joint petition of Berea College and the City of Berea ("Applicants") respectfully shows:

1. Berea College ("College") is a Kentucky non-profit corporation with its principal office located at Lincoln Hall, 101 Chestnut Street, Berea, Kentucky 40403. College has owned and operated electric and water utilities in Berea, Kentucky since their inception. A certified copy of its Articles of Incorporation are attached hereto and incorporated herein by reference as **Exhibit "A"**. Maps reflecting College's electric and water service areas are attached hereto and incorporated herein by reference as **Exhibits "B" and "C"**.

2. The City of Berea ("City") is a Kentucky municipal corporation with its principal office located at Berea City Hall, 212 Chestnut Street, Berea, Kentucky 40403.

3. College and City have entered into a Utility Asset Purchase Agreement ("Agreement"), a copy of which is attached hereto and incorporated herein by reference as **Exhibit "D"**.

4. Pursuant to KRS 278.020(5) and (6), the proposed transfer of assets contemplated in the Agreement ("Proposed Transaction") must be approved by this Commission.

5. Notice of the Proposed Transaction was published in the Berea Citizen on September 2, 2004, and the notice is also scheduled to be published again on September 9, 2004

and on September 16, 2004. A copy of the notice is attached hereto and incorporated herein by reference as **Exhibit “E”**.

6. In addition, notice has been given to the Garrard County Water District and the Southern Madison Water District by mailing letters to those districts on September 1, 2004. Copies of the letters are attached hereto and incorporated herein as **Exhibits “F” and “G”**.

7. The Proposed Transaction has received considerable attention in the local press, including stories in the Berea Citizen, the Richmond Register, and the Lexington Herald-Leader. Copies of selected stories from the three newspapers are attached hereto and incorporated herein by reference as **Exhibit “H”**.

#### **Factors for Consideration under KRS 278.020(5)**

##### **Financial Abilities**

8. City’s financial condition is such that City is financially able to operate electric and water services as contemplated in the Agreement. Copies of City’s most recent financial statements are attached hereto and incorporated herein by reference as **Exhibit “I”**.

9. City has operated the Berea Sewer Commission (“Sewer Commission”) since 1961.

10. City is considering an ordinance to create the Berea Municipal Utilities Department (“BMUD Ordinance”). The Berea Municipal Utilities Department (“BMUD”) will combine the electric and water systems with the City’s existing sewer operations. A copy of the proposed BMUD Ordinance is attached hereto and incorporated herein by reference as **Exhibit “J”**. The BMUD Ordinance is to be effective on the date that the Proposed Transaction is closed.

11. During the 2001, 2002 and 2003 fiscal years ending on June 30, the net income for the Sewer Commission has been \$603,119, \$310,691 and \$281,852, respectively. Retained earnings for the Sewer Commission total \$3,146,489 as of June 30, 2003, and the cash on hand as of June 30, 2003 totaled \$8,075,507. The declines in net income are primarily attributable to lower interest income on cash reserves. Copies of the Sewer Commission's financial statements for fiscal years 2001, 2002, and 2003 are attached hereto and incorporated herein by reference as **Exhibits "K", "L" and "M"**.

12. Prior to entering into the Agreement, City obtained a compilation of proforma cash flows for the electric and water services from Work & Greer, P.C., an accounting firm based in Nashville, Tennessee. A copy of Compilation of Combined Proforma Cash Revenues, and Available Cash Flows and Assembly of Proforma Budget Statements of Revenues, Expenses and Available Cash Flows for Berea College Utility Operations is attached hereto and incorporated herein by reference as **Exhibit "N"**. As reflected in **Exhibit "N"**, the net cash flow (i.e. net operating income less depreciation and debt service) from the electric and water services over the next twenty (20) years is projected to range from a low of \$16,870,520 to a high of \$24,921,620, all of which should be available for capital expenditures, for contingencies and to provide City with a return on its investment. The compilation indicates that the net cash flow from the electric and water services over the next five (5) years is projected to range from a low of \$4,217,630 to a high of \$6,230,405.

13. As a separate part of City's due diligence investigation of the electric and water systems, the City retained CDP Engineers, Inc. of Lexington, Kentucky to evaluate the condition and capacity of the electric and water system and to create a five-year capital improvement plan.

A copy of the report to City from CDP (“CDP Report”) is attached hereto and incorporated herein by reference as **Exhibit “O”**.

14. The CDP Report reflects that during the next five years, the cost of electric and water system capital improvements which are necessary to satisfy regulatory compliance or to address critical needs total \$3,718,000, an amount materially less than the low range of estimated cash flow from the electric and water services.

15. Paragraph 8 of the Agreement specifies that all employees of College’s water system and electric system as of closing will be offered employment by City at wage levels no lower than their wage levels on the closing date.

16. College and City have entered into a Water Withdrawal Agreement, a copy of which is attached to **Exhibit “D”** which will secure to the City the existing reliable sources of water for the water system.

17. College has acquired wholesale electric power from Kentucky Utilities pursuant to contract (“KU Contract”), a copy of which is attached hereto and incorporated herein by reference as **Exhibit “P”**.

18. At the closing of the Proposed Transaction, College will transfer its rights in the KU Contract to City pursuant to an assignment, a copy of which is attached hereto and incorporated herein by reference as **Exhibit “Q”**.

19. J.J.B. Hilliard, W.L. Lyons, Inc. evaluated the financial ability of City’s combined utility system in order to assess combined utility system’s capacity to satisfy its obligations to prospective bondholders, and the results of that evaluation are set forth in the direct testimony of Christopher Bowling, a copy of which is attached hereto and incorporated herein by reference as **Exhibit “R”**.

20. City anticipates enacting a bond ordinance, a draft of which is attached hereto and incorporated herein by reference as **Exhibit “S”** (“Bond Ordinance”). Under the terms of the draft Bond Ordinance or as otherwise required by the bond underwriter, the cash flow from City’s combined utility system will be obligated to be used for (a) operating and maintaining the system, (b) establishing operating reserves for the system, (c) providing City with a specified return on City’s investment, and (d) servicing debt associated with the system.

21. In light of (a) City’s current financial resources, (b) the financial strength of the Sewer Commission, (c) the projected cash flow from the electric and water systems, (d) the projected capital improvement costs, (e) the continuity of employment of those employees who presently operate and manage College’s electric and water system, (f) the access to water as provided in the Water Withdrawal Agreement, (g) the assignment of the KU Contract, and (h) the financial covenants imposed by the proposed Bond Ordinance, City has the financial ability to provide reasonable service as required by KRS 278.020(5).

#### **Technical Abilities**

22. As noted in Paragraph 15 above, Paragraph 8 of the Agreement specifies that all employees of College’s electric and water system as of closing will be offered employment by City at wage levels no lower than their wage levels on the closing date.

23. In addition to the College’s employees who will continue their employment with City, employees from the Sewer Commission will supplement the available technical expertise of the College’s employees.

24. City anticipates using consultants to supplement the technical and operational expertise of employees.

25. In light of (a) the continuity of employment of those employees familiar with the technical and operational issues associated with the College's electric and water system, (b) the added technical and operational expertise of the Sewer Commission employees, and (c) City's anticipated use of technical and operational consultants, City has the technical ability to provide reasonable service as required by KRS 278.020(5).

#### **Managerial Abilities**

26. As noted in Paragraph 15 above, Paragraph 8 of the Agreement specifies that all employees of College's electric and water system as of closing will be offered employment by City at wage levels no lower than their wage levels on the closing date.

27. As described in Paragraph 10 above, City intends to adopt the BMUD Ordinance which will create the BMUD and combine the electric and water systems with the Sewer Commission.

28. Upon its adoption, the BMUD Ordinance will provide for a Public Utilities Superintendent who will be responsible for all matters relating to the water and electric utilities, as well as matters relating to City's existing sewer system.

29. In addition to College's employees who will continue their employment with City, employees from the Sewer Commission will supplement the available managerial expertise of the College's employees.

30. In light of (a) the continuity of employment of those employees familiar with the managerial issues associated with College's water system and electric system, (b) the management structure to be utilized by City, and (c) the added managerial expertise to be obtained from City's Sewer Commission employees, City has the managerial ability to provide reasonable service as required by KRS 278.020(5).

**The Public Interest Analysis under KRS 278.020(6)**

**No Adverse Effect on Service or Rates**

31. Generally, City intends to continue the good service heretofore provided by College.

32. As specified above, City anticipates retaining the employees who currently operate College's electric and water systems.

33. As a result of this continuity of employment and City's financial, technical and managerial abilities as set forth above, the public interest will be served by the Proposed Transaction inasmuch as there will be no adverse effect on existing service.

34. City intends to enact an ordinance ("Rate Ordinance") which will adopt College's current tariffs as the rates which will be charged by City to all customers, regardless of whether those customers live inside the city limits or outside the city limits. A copy of the proposed Rate Ordinance is attached hereto and incorporated herein by reference as **Exhibit "T"**.

35. As a result of the adoption of the Rate Ordinance, there will be no adverse effect on rates.

**Benefits to the Public**

36. Customer service will be improved as a consequence of customers having one location to pay bills and obtain service rather two as is currently required.

37. The Proposed Transaction also creates the opportunity for combined billing so as to reduce the number of utility bills received each month by customers.

38. City also anticipates utilizing its geographical information system to provide substantially improved mapping for the electric and water systems.

39. Customers will have the opportunity to utilize City's twenty-four hour emergency dispatch center to report outages and other service problems.

40. As a result of City's acquisition of the College's electric and water system, City will be in a better position to facilitate planned growth and will, therefore, have a utility system which has enhanced reliability in providing needed new utility services in new areas of City.

41. As a municipally-owned utility, BMUD will be eligible to participate in an assortment of state and federal programs which offer low interest financing or grants for capital improvements, the net result of which will be a reduced need for revenue, less need to increase rates, and savings for customers as compared to more traditional financing mechanisms available to privately-owned utilities.

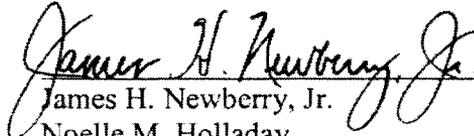
42. The Proposed Transaction permits the continued employment of College's current electric and water system employees.

43. The Proposed Transaction enables City to continue the local control of the electric and water systems and would therefore permit customers to have ready access to the management of the electric and water systems.

44. The Proposed Transaction enables City to consider cable television and Internet services at a later time, if feasible.

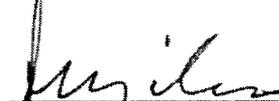
WHEREFORE, inasmuch as the Applicants have shown that (a) City has the requisite financial, technical and managerial ability to operate the electric and water system and (b) the public interest will be served by the consummation of the Proposed Transaction, the Applicants ask that the Public Service Commission of the Commonwealth of Kentucky enter an order authorizing the Applicants to transfer the assets pursuant to the terms of the Agreement.

Dated: September \_\_\_\_, 2004.



James H. Newberry, Jr.  
Noelle M. Holladay  
Wyatt, Tarrant & Combs, LLP  
250 West Main Street, Suite 1600  
Lexington, KY 40507  
859.233.2012

and



Judge B. Wilson, II  
General Counsel  
Berea College  
CPO 2211  
Berea, KY 40404  
859.985.3131

ATTORNEYS FOR BERA COLLEGE



James T. Gilbert  
Coy, Gilbert & Gilbert  
212 North Second Street  
Richmond, KY 40475  
859.623.3877

ATTORNEY FOR CITY OF BERA

**VERIFICATION**

We hereby verify that the information set forth above is true to the best of our knowledge and belief.

BEREA COLLEGE

By: E. Diane Kerby

Title: Vice President Business Administration

CITY OF BERA

By: Randy Stone

Title: City Administrator

STATE OF KENTUCKY

COUNTY OF \_\_\_\_\_

The foregoing was acknowledged, subscribed and sworn to before me this 1<sup>st</sup> day of Sept, 2004, by E Diane Kerby, as Vice President Business + Adm. of Berea College.

My Commission expires: 5/17/06

Scotty Abney  
Notary Public

STATE OF KENTUCKY

COUNTY OF \_\_\_\_\_

The foregoing was acknowledged, subscribed and sworn to before me this 1<sup>st</sup> day of Sept, 2004, by ~~Cheryl Chasteau~~ Randy Stone; as City Adm. of the City of Berea.

My Commission expires: 4/26/08

Cheryl Chasteau  
Notary Public

## LIST OF EXHIBITS

- “A” - Certified Copy of Berea College’s Articles of Incorporation
- “B” - Map of Electric System Service Area
- “C” - Map of Water System Service Area
- “D” - Utility Asset Purchase Agreement
- “E” - Published Notice
- “F” - Letter to Garrard County Water District
- “G” - Letter to Southern Madison Water District
- “H” - Newspaper Articles Relating to Proposed Transaction
- “I” - City Financial Statements
- “J” - Proposed BMUD Ordinance
- “K” - Sewer Commission Financial Statements for Fiscal Year 2001
- “L” - Sewer Commission Financial Statements for Fiscal Year 2002
- “M” - Sewer Commission Financial Statements for Fiscal Year 2003
- “N” - Compilation of Pro Forma Cash Flows Prepared by Work & Greer, PC
- “O” - Report of CDP Engineers, Inc.
- “P” - Wholesale Electric Agreement between Berea College and Kentucky Utilities
- “Q” - Assignment of Wholesale Electric Agreement
- “R” - Direct Testimony of Christopher Bowling
- “S” - Proposed Bond Ordinance
- “T” - Proposed Rate Ordinance

**“A” - Certified Copy of Berea College’s Articles of Incorporation**



**Trey Grayson**  
**SECRETARY OF STATE**

**CERTIFICATE**

I, **Trey Grayson**, Secretary of State for the Commonwealth of Kentucky, do hereby certify that the foregoing writing has been carefully compared by me with the original thereof, now in my official custody as Secretary of State and remaining on file in my office, and found to be a true and correct copy of **ARTICLES OF INCORPORATION OF**

**BEREA COLLEGE FILED NOVEMBER 20, 1908,**

**ARTICLES OF AMENDMENT FILED MAY 3, 1963.**

STATE OF OHIO

*Berea College*

Capital Stock, \$ \_\_\_\_\_

Organization Tax, \$ \_\_\_\_\_

Filed and Certificate Issued,  
*20 Nov*, 190*8*

Recording Fee \$ *2.00* paid.

BEN L. BRUNER,

Sec'y of State

By *[Signature]*

Recorded in Corporation

Book No. \_\_\_\_\_ Page \_\_\_\_\_

Box *257*

Bundle *20*

3777

**BEREA COLLEGE ARTICLES OF  
INCORPORATION.**

Whereas in the year 1850 Berea College an institution of learning, was organized by written articles afterwards entered of record in the office of Clerk of the Madison County Court in the State of Kentucky, which institution has continued in existence until the present day: and

Whereas it is deemed best to conform the institution in its organization to the present laws and Constitution of Kentucky the following

Articles of Incorporation are hereby adopted:

1st. The name of the Corporation is

"Berea College"

2nd. Its principal place of business is Berea in Madison County, Kentucky.

3rd. Its object is the education of all persons who may attend its institution of learning at Berea, and in the language of the original articles "To promote the Cause of Christ."

4th. There will be no Capital stock.

5th. The following are the incorporators:-

|                       |            |          |
|-----------------------|------------|----------|
| Harlan P. Loyd        | Cincinnati | Ohio     |
| Edwin R. Stearns      | Wyoming    | Ohio     |
| Guy Ward Mallon       | Cincinnati | Ohio     |
| Curtis F. Burnas      | Richmond   | Kentucky |
| Samuel G. Hanson      | Winchester | Kentucky |
| William Goodloe Frost | Berea      | Kentucky |
| Josiah Burdett        | Berea      | Kentucky |
| David Gamble          | Cincinnati | Ohio     |
| William Herndon       | Lancaster  | Kentucky |

6th. The Corporation will continue business under these articles for one hundred years from and after the 31<sup>st</sup> day of May 1899.

7th. The affairs of the Corporation will be conducted by twenty-five persons who shall be called

**"The Board of Trustees of Berea College"**

And the President of the College shall be one of these trustees. Said trustees, other than the President shall be divided into six classes of four persons each as hereinafter provided, the terms of one class to expire each year their successors to be elected by the Board of Trustees who shall also elect all officers of the institution. The present trustees are hereby designated to act from this date as follows, to-wit:

|                  |            |          |
|------------------|------------|----------|
| Wm. Herndon      | Lancaster  | Kentucky |
| L.J. Aldrich     | Berea      | Indiana  |
| Adriance Ballard | Chicago    | Illinois |
| Guy Ward Hallett | Cincinnati | Ohio     |

Whose terms shall expire in the year 1900

|                  |            |          |
|------------------|------------|----------|
| W. Murray Crane  | Dalton     | Mass.    |
| W. O. Taylor     | Lexington  | Kentucky |
| Edwin R. Stearns | Wyoming    | Ohio     |
| Harlan P. Loyd   | Cincinnati | Ohio     |

Whose terms will expire in the year 1901

|                   |            |          |
|-------------------|------------|----------|
| W. F. Walworth    | Cleveland  | Ohio     |
| J. V. Fifield     | Chicago    | Illinois |
| James Bond        | Birmingham | Ala.     |
| Curtis F. Burnham | Richmond   | Kentucky |

Whose terms will expire in the year 1902.

|                    |            |          |
|--------------------|------------|----------|
| Samuel G. Hanson   | Winchester | Kentucky |
| Josiah Burdett     | Berea      | Kentucky |
| Thomas H. C. Allen | Cincinnati | Ohio     |
| W. R. C. Wright    | Olivet     | Michigan |

Whose terms shall expire in the year 1903

8.

|                   |            |             |
|-------------------|------------|-------------|
| J.A.R.Rogers      | Hartford   | Connecticut |
| F.M.McWhining     | Franklin   | Ohio        |
| J.Cleveland Caddy | New York   | New York    |
| James W.Pullock   | Cincinnati | Ohio        |

Whose terms shall expire in the year 1904

|                  |            |               |
|------------------|------------|---------------|
| John C. Fee      | Berea      | Kentucky      |
| David R.Gamble   | Cincinnati | Ohio          |
| William F.Horton | Boston     | Massachusetts |
| John R. Rogers   | Brooklyn   | New York      |

Whose terms shall expire in the year 1905.

Each of said trustees shall hold his office until his term shall expire as fixed by these articles, and until his successor is elected; and said trustees shall be elected and hold by classes as hereinbefore set out. A vacancy in any trusteeship or other office or position shall be filled by the board of trustees, and each person so elected shall fill out the unexpired term and serve until his successor is elected. William George Probst now President and T.J.Osborne who has been and is acting Secretary and Treasurer, and the present presidential committee shall continue to act until the next annual election, the present investment committee will continue in office until the next annual election and until its successors are elected. An election for trustees and for officers as their terms shall expire and as vacancies may occur shall be held at Berea on the third Wednesday in June of each year, but if for any reason the Board of Trustees shall meet at a different date the election may be held at the date of the meeting.

8th. The Corporation shall not at any time incur an indebtedness exceeding in the aggregate the sum of \$50,000.

9th. The private property of the incorporators and members of the Corporation shall not be subject to the payment of Corporate debts.

Harlan F.Loyd

Guy Ward Mallen

David B. Gamble  
 Edwin R. Stearns  
 William Herndon  
 Wm. Gooden<sup>all</sup> Frost  
 Earl. C. Hanson  
 Josiah Burdette  
 Curtis P. Furness

STATE OF OHIO  
 COUNTY OF HAMILTON. } Dec.

I William S. Walker a Notary Public in and for the county and state aforesaid do certify that the foregoing instrument of writing was this day produced to me by Harlan P. Loyd and others and was acknowledged before me by said Harlan P. Loyd, Guy Ward Mallon, Edwin R. Stearns and David B. Gamble ( whom I know to be the persons they represent themselves to be) in due form of law, to be their act and deed and the same is hereby certified to the proper office for record.

My commission as Notary Public expires on the 24th, day of June A.D. 1900.

Given under my hand and seal of office this 10th, day of June A.D. 1899.

Wm. S. Walker  
 Notary Public Hamilton County, Ohio.

STATE OF KENTUCKY,  
 Garrard County. } Oct.

I John W. Duncanson Clerk of the Garrard County Court State of Kentucky do certify that the foregoing instrument of writing was this day produced to me by William Herndon who is known to me to be the person he represents himself to be and who signed the foregoing instrument and acknowledged by him in due form of law to be his act and deed, and the same is hereby certified to the Clerk of the Madison

Given under my hand and seal of office this the 20th, day of June, 1899.

Robt. R. Burnwal.  
Notary Public.

STATE OF KENTUCKY,  
COUNTY OF MADISON.

}  
}     Sct.

I John F. White, Clerk of the Court for the County and State aforesaid do certify that the foregoing instrument of writing was on the 27th, day of June 1899 produced to me in my office certified as above for record. Thereon the same and the foregoing and this certificate has been duly recorded in my office and properly stamped.

Given under my hand this June 27th, 1899.

John F. White, Clerk  
By W. S. Hurley, D.C.

STATE OF KENTUCKY,  
COUNTY OF MADISON.

}  
}     Sct.

I, Jesse Cobb, Clerk of the Madison County Court, do hereby certify that the foregoing is a true and correct copy of the Articles of Incorporation of Berea College as are filed and recorded in my office in Deed Book 47, page 619.

Given under my hand this the 15th, day of Nov. 1905.

*Jesse Cobb*  
Clerk Madison County Court.

3977

# Commonwealth of Kentucky

## Department of State



### Office of Secretary of State

HENRY H. CARTER, SECRETARY

#### ARTICLES OF AMENDMENT

I, HENRY H. CARTER, Secretary of State of the Commonwealth of Kentucky, do hereby certify that Articles of Incorporation of

BEREA COLLEGE

Berea, Kentucky

have been amended pursuant to Articles of Amendment, duly signed and acknowledged according to law, this day filed in my office by said corporation, and that all taxes, fees and charges payable upon the filing of said Articles of Amendment have been paid.

Witness my official signature this 3rd day

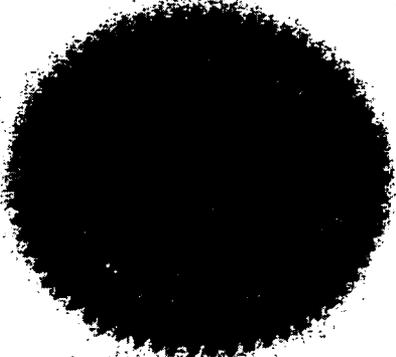
of May, 19 63

*Henry H. Carter*

Secretary of State

*J. P. Lynn*

Assistant Secretary of State



SECRETARY OF STATE

## BEREA COLLEGE

AMENDMENT TO ARTICLES OF INCORPORATION

The undersigned, being at least two-thirds (2/3) of the Trustees of Berea College ( an educational, nonstock, nonprofit corporation organized and existing under and by virtue of the laws of the Commonwealth of Kentucky), do hereby agree, consent and authorize (pursuant to Kentucky Revised Statute 273.050) that the Articles of Incorporation of Berea College, as heretofore amended, and as recorded in the office of the Secretary of State of the Commonwealth of Kentucky and in the office of the County Court Clerk of Madison County, Kentucky, be amended in their entirety to read as follows:

## BEREA COLLEGE

## ARTICLES OF INCORPORATION

1. Name. The name of the corporation is "Berea College."
2. Place of business. The principal place of business of the corporation is Berea, Madison County, Kentucky.
3. Objects, purposes and powers. The objects and powers of the corporation are:
  - (a) to establish and maintain an institution or institutions of learning (including a college) at which young people of good character and promise may be provided with a thorough Christian education with opportunities for work experience and thus to promote the cause of Christ and the spiritual and material welfare of the mountain regions of the South;
  - (b) to prescribe the courses of study, employ professors, instructors, and teachers, and to maintain and control the government and discipline in said college, and in each of the several departments,

preparatory schools, or other institutions subordinate thereto, and to fix the rates of charges and the qualifications for admission to the college and its various schools and departments;

(c) to grant such literary honors and degrees as are usually granted by like institutions, and to give suitable diplomas;

(d) To receive, hold, invest, and disburse all moneys and property, or the income thereof, which may be vested in or intrusted to care of the corporation, whether by gift, grant, bequest, devise, or otherwise, for educational purposes;

(e) to act as trustee for persons desiring to give or provide moneys or property, or the income thereof, for any one or more of the activities of the corporation, and for any of the objects aforesaid, or for any educational purpose;

(f) to establish and administer charities and to receive, hold, control, invest, and disburse moneys and property or the income thereof in support of such charitable uses; and

(g) generally to pursue and promote all or any of the objects above named, and to do all and every of the things necessary or pertaining to the accomplishment of said objects or any of them.

4. INCORPORATORS. The following persons constituted the original Board of Trustees of the corporation in 1859:

Geo. Candee  
Jas. J. Davis  
John G. Fee  
John G. Hanson  
T. J. Renfro  
J. A. R. Rogers  
John Smith  
Wm. Stapp

5. Duration. The duration of the corporation is perpetual.

6. Trustees. The management of the corporation shall be vested in a Board of Trustees, consisting of not more than thirty-one (31) nor less than fifteen (15) and having twenty-seven (27) in number at the date of this amendment. The acts of the Board of Trustees shall be the acts of the corporation for all purposes. The number of trustees may be increased or decreased from time to time by amendment to the By-laws. Trustees shall be divided into such classes and be elected by the Board of Trustees in such manner and for such terms of office as shall from time to time be provided in the By-laws.

In the election of trustees, or the employment of teachers, each such trustee and teacher shall be in sympathy with the objects of the corporation.

Any trustee may be removed by vote of a majority of the Board of Trustees when in its judgment he shall be rendered incapable for any reason of discharging the duties of his office or shall neglect or refuse to perform the same.

The membership of the corporation shall consist of the trustees.

The Board of Trustees may make By-laws not inconsistent with the terms of these Articles of Incorporation, or with the laws of this State, or of the United States, for the government and control of the corporation and of its several departments and institutions of learning under its care and control, and for the proper management of the educational, fiscal, and other affairs of the corporation, and for the care and investment of all moneys and property belonging to it, or given or intrusted to the corporation for educational or other purposes. The By-laws shall provide for annual meetings.

7. Non-liability of members. No member of the corporation shall be personally liable for any debts or liabilities whatsoever of the corporation.

8. Amendments. These Articles of Incorporation may be amended by two-thirds of the trustees signing the amendment and filing the same in the office of the Secretary of State of the Commonwealth of Kentucky, and recording the same in the county clerk's office of the county where the principal place of business of the corporation is located."

IN WITNESS WHEREOF, we have hereunto set our hands this

26<sup>th</sup> day of April, 1963.

|                    |                       |
|--------------------|-----------------------|
| <u>[Signature]</u> | E. W. LUTHERING       |
| <u>[Signature]</u> | ALLEN J. SECRETY      |
| <u>[Signature]</u> | DAVID C. CASBIE       |
| <u>[Signature]</u> | RUSSELL I. TOSH       |
| <u>[Signature]</u> | EDWARD S. COOPER      |
| <u>[Signature]</u> | ANTHONY L. NICHOL     |
| <u>[Signature]</u> | ALLEN KURTIS FOSTER   |
| <u>[Signature]</u> | RAYMOND E. GIBSON     |
| <u>[Signature]</u> | LESLIE C. ROBBINS     |
| <u>[Signature]</u> | CHARLES W. ALLEN, JR. |
| <u>[Signature]</u> | THOMAS J. WOOD        |
| <u>[Signature]</u> | DONALD DANFORTH       |
| <u>[Signature]</u> | GAIL F. JOHNSTON      |
| <u>[Signature]</u> | E. S. DEBNEY          |
| <u>[Signature]</u> | MORTIMER TURNER       |
| <u>[Signature]</u> | CHARLES LESLIE GLENN  |
| <u>[Signature]</u> | ALLEN KNIGHT CHALMERS |
| <u>[Signature]</u> | CHASE KIMBALL         |
| <u>[Signature]</u> | WALTER E. BUCKNER     |
| <u>[Signature]</u> | FRANCIS S. HUTCHINS   |

[FORM OF ACKNOWLEDGMENT]

COMMONWEALTH OF KENTUCKY }  
COUNTY OF MADISON } SS.

I, Fritz MacLean, notary public, do certify that the foregoing instrument of writing was this day produced to me in my county and acknowledged before me by the said E. W. Kettering, Alfred J. Stokely, David G. Gamble, Russell I. Todd, Edward B. Cooper, Anthony L. Michel, Allan Everts Foster, Raymond E. Gibson, Earl G. Robbins, Charles W. Allen, Jr., Thomas J. Wood, Donald Danforth, Gale F. Johnston, E. S. Dabney, Norfleet Turner, Charles Leslie Glass, Allan Knight Chalmers, Chase Kimball, Walter G. Buckner and Francis S. Hutchins.

respectively, to be their several acts and deeds for the uses and purposes therein set forth.

GIVEN under my hand and seal of office this 26<sup>th</sup> day of April, 1963.

Fritz MacLean  
Notary Public

My commission expires: 2-17-64

ORIGINAL COPY  
FILED AND RECORDED  
[Signature]  
1963

NOTARY PUBLIC  
[Signature]  
NOTARY PUBLIC OF KENTUCKY

**“B” - Map of Electric System Service Area**